

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

IN RE: C. R. BARD, INC.,
PELVIC REPAIR SYSTEM
PRODUCTS LIABILITY LITIGATION

MDL NO. 2187

THIS DOCUMENT RELATES TO:

Terrell v. C. R. Bard, Inc.

Civil Action No. 2:13-cv-16833

ORDER

Pending before the court are the following motions: (1) Defendant C. R. Bard, Inc.’s Motion to Exclude or Limit Certain Opinions and Testimony by Plaintiffs’ Treating Physicians (“Bard’s Motion to Exclude”) [Docket #65]; (2) Defendant C. R. Bard, Inc.’s Omnibus Motion to Exclude Testimony and Evidence Pursuant to *Daubert* and the Federal Rules of Evidence (“Bard’s Omnibus Motion”) [Docket #69]; and (3) Plaintiffs’ Motion to Strike or, in the Alternative, Response in Opposition to Bard’s “Omnibus Motion to Exclude Testimony and Evidence Pursuant to *Daubert* and the Federal Rules of Evidence” (Plaintiff’s Motion to Strike”) [Docket #72].

These two “omnibus” motions [Dockets ##s 65 and 69] seek to exclude broad categories of expert testimony. However, Rule 702, by its plain terms, contemplates *Daubert* challenges directed at the opinions of *specific* experts, not the opinions of a collection of experts. While these experts may have come to similar conclusions, it is not the conclusions that the court must assess, but the reliability of the methods and procedures underpinning those conclusions. *Daubert v. Merrell Dow Pharm., Inc.*, 509 U.S. 579, 595 (1993) (“The focus, of course, must be solely on principles and methodology, not on the conclusions that they generate.”). Two experts

may come to a similar conclusion, but one or both experts' methodology in reaching that conclusion may be unreliable. Rule 702 directs the court to determine whether *an expert* is qualified, whether his or her opinions are the product of reliable methodology, and whether the opinions will be helpful to the jury. *See* Fed. R. Evid. 702. I can only conduct the required *Daubert* analysis on an individualized basis.

For example, Bard's Omnibus Motion makes no mention of any specific expert in this case or his/her opinions. Instead, Bard merely recites the law governing expert testimony and a history of this court's prior *Daubert* rulings. Clearly, at this point in the MDLs, where there are wave cases from multiple jurisdictions, involving a variety of products, and requiring testimony from many different treating physicians, such a blanket exclusion of opinions and testimony would be inappropriate.

Accordingly, Bard's Omnibus Motion to Exclude [Docket #65] is **DENIED**; Bard's Omnibus Motion [Docket #69] is **DENIED**; and Plaintiff's Motion to Strike [Docket #72] is **DENIED as moot**.

The court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: January 29, 2015



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE